



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
WALTER WARE  
:  
Plaintiff, :  
:  
- against - :  
:  
CYNTHIA BRANN, *et al.*, :  
:  
Defendants. :  
-----X

21-CV-2028 (PGG) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves Plaintiff's letter motion at Dkt. 99 to file an amended complaint. The deadline for filing amended pleadings expired on March 1, 2022. For Plaintiff to now be granted leave to amend, he must demonstrate good cause. In addition, amendment may be denied due to futility, undue delay, bad faith or undue prejudice. *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1962); *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007). Here, discovery has closed, and a summary judgment briefing schedule has been set. Plaintiff has not set forth any basis for demonstrating good cause to make the amendments sought at such a belated hour. Those amendments would add an additional year of alleged violations, introduce new factual issues, and require reopening discovery. Defendants would thereby be unduly prejudiced. Accordingly, the motion to amend is denied, and the proposed Amended Complaint filed at Dkt. 100 is hereby stricken. The summary judgment schedule as previously ordered remains in place: Plaintiff's moving papers, if any, are due on or before September 12, 2023; Defendants' cross-moving and opposition papers are due on or before October 24, 2023; Plaintiff's reply and opposition papers are due on

or before December 5, 2023; and Defendants' reply papers are due on or before December 29, 2023. If Plaintiff does not move for summary judgment, then the briefing will begin with Defendants' motion to be filed on or before October 24, 2023.

The Clerk of Court is respectfully requested to mail a copy of this order to Plaintiff and note service on the record.

SO ORDERED.



---

ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: August 1, 2023  
New York, New York